

330 CMR: DEPARTMENT OF FOOD AND AGRICULTURE

330 CMR 29.00: DAIRY FARMER TAX CREDIT PROGRAM

Section

- 29.01: Scope and Purpose
- 29.02: Definitions
- 29.03: Dairy Farmer Tax Credit Program Established
- 29.04: Dairy Farmer Eligibility
- 29.05: Certification of Eligibility and Tax Credit
- 29.06: Trigger Price
- 29.07: Farm Price
- 29.08: Tax Credit Calculation and Transmittal to the Department of Revenue
- 29.09: Application of the Tax Credit to an Eligible Taxpayer's Tax Return

29.01: Scope and Purpose

330 CMR 29.00 implements M.G.L. c. 62, §§ 6(o)(1) through (4), and M.G.L. c. 63 § 38Z, which provides for a tax credit to dairy farmers. The purpose of 330 CMR 29.00 is to provide revenue stability to dairy farmers when milk prices paid to farmers fall dramatically.

29.02: Definitions

As used in 330 CMR 29.00:

Annual Milk Production means the sum of the monthly milk production reported by an Eligible Taxpayer for the calendar year pursuant to 330 CMR 29.04(3).

Butterfat Price means Butterfat Price as announced each month by the Northeast Federal Milk Marketing Order for Boston, MA.

Butterfat Test means the average Butterfat Test as announced each month by the Northeast Federal Milk Marketing Order for Boston, MA.

Certificate of Registration means the certificate of registration issued by the Commissioner pursuant to M.G.L. c. 94, § 16A.

Commissioner means the Commissioner of the Department of Agricultural Resources.

Dairy Farmer Tax Credit means an amount calculated by multiplying the Dairy Farmer Tax Credit Rate by the number of hundredweights of the Annual Milk Production of an Eligible Taxpayer as reported under 330 CMR 29.04(3).

Dairy Farmer Tax Credit Rate means a value calculated by dividing the Total Tax Credit by the number of hundredweights of milk in the Total Milk Production.

Department means the Massachusetts Department of Agricultural Resources.

Eligible Taxpayer means a person as defined by M.G.L. c. 4, § 7, 23rd paragraph who holds a Certificate of Registration.

Farm Price means a price calculated according to 330 CMR 29.04 that reflects the milk price paid to farmers and based on the United States Milk Marketing Order for the Northeast.

MILC Payment means Milk Income Loss Contract Program payment as calculated according to 7 USC 8773.

Monthly Milk Costs of Production means the Monthly Milk Costs of Production for the state of Vermont published by the USDA or as the Commissioner shall otherwise determine.

330 CMR: DEPARTMENT OF FOOD AND AGRICULTURE

Northeast Federal Milk Marketing Order means 7 CFR 1001.

29.02: continued

Program means the Dairy Farmer Tax Credit Program.

Protein Price means the price of protein as announced monthly by the Northeast Federal Milk Marketing Order, Boston, MA.

Proteins Test means the average protein test as announced monthly by the Northeast Federal Milk Marketing Order, Boston, MA.

Solids Price means the solids price as announced monthly by the Northeast Federal Milk Marketing Order.

Solids Test means the average solids test as announced monthly by the Northeast Federal Milk Marketing Order, Boston, MA.

Total Milk Production means the sum of all the Annual Milk Production of all Eligible Taxpayers.

Total Cumulative Value of Credits means the total cumulative value of authorized credits as provided in M.G.L. c. 62, § 6(o)(3), and M.G.L. c. 63, § 38Z.

Total Tax Credit means a value obtained by multiplying the Trigger Percent by the Total Cumulative Value of Credits.

Trigger Percent means the number of months for which the Farm Price is less than or equal to the Trigger Price divided by 12.

Trigger Price means the price established by the Department for the purpose of calculating the tax credit.

USDA means the United States Department of Agriculture.

29.03: Dairy Farmer Tax Credit Program Established

The Department shall establish a Dairy Farmer Tax Credit Program under which an Eligible Taxpayer who holds a Certificate of Registration as a dairy farmer may be allowed a refundable income tax credit based on the amount of milk produced and sold. The credit shall be claimed against the taxes due pursuant to M.G.L. chs. 62 or 63. The credit shall be based on the United States Federal Milk Marketing Order for the applicable market such that if the United States Federal Milk Marketing Order price drops below a Trigger Price anytime during the taxable year such taxpayer may receive the tax credit.

29.04: Dairy Farmer Eligibility

(1) Disclosure and Authorization Statement. Any Eligible Taxpayer wishing to claim the Dairy Farmer Tax Credit shall file a disclosure and authorization statement with the Commissioner not later than January 31st. The disclosure and authorization statement shall be on a form prescribed by the Commissioner and shall include a statement disclosing taxpayer identification information, monthly milk production information as it becomes available, and authorization for third parties with relevant milk production information to release such information to the Department for verification purposes. An eligible taxpayer obtaining a Certificate of Registration after January 31st shall file a Disclosure and Authorization Statement with the Commissioner within 30 days thereafter. The Commissioner may extend the deadline for cause.

(2) Certificate of Registration and Qualification. A Certificate of Registration is required for the Program.

29.04: continued

(3) Monthly Milk Production Reports. An Eligible Taxpayer shall submit a monthly milk production report, on a form prescribed by the Commissioner, not later than the last day of the next ensuing month except for the month of December, which shall be submitted no later than the 15th day of January.

(4) Data Release Authorization. An Eligible Taxpayer who has filed a Disclosure and Authorization Statement with the Commissioner shall be deemed to have authorized the release of production data required by the Commissioner for the administration of this Program.

29.05: Certification of Eligibility and Tax Credit

(1) The Commissioner shall certify to the Commissioner of the Department of Revenue pursuant to M.G.L. c. 62, § 6(o), or M.G.L. c. 63, § 38Z(d), that an Eligible Taxpayer claiming credits under 330 CMR 29.00 has met the eligibility requirements provided in 330 CMR 29.05 and the amount of credit to which any such Eligible Taxpayer is entitled. In making such certification, the Commissioner shall state that, to the best of the Commissioner's knowledge, the milk production reports submitted by an Eligible Taxpayer are accurate. A copy of the certification shall be sent to the Eligible Taxpayer.

(2) The Department may verify monthly milk production reports either by auditing a Person's records of milk production revenues or by acquiring records from third parties that have collected such data including records released by the Federal Milk Market Administrator's Office after due release permission has been granted, milk marketing cooperatives, or the MILC program records.

(3) Resolving Discrepancy. If the Commissioner identifies a discrepancy in production reports, the Eligible Taxpayer shall be notified, whereupon the Eligible Taxpayer shall have three days to return to the Commissioner with sufficient information to validate the production record. Upon receipt of such information, the Commissioner shall then have three days to notify the Eligible Taxpayer of its determination as to whether to amend the Eligible Taxpayer's total production.

29.06: Trigger Price

(1) Calculation. The Trigger Price shall be calculated for each month during the year and shall equal the sum of the following components of the Monthly Milk Cost of Production: total operating costs, cost of hired labor, and a portion of the opportunity cost of unpaid labor. Beginning in 2008, the portion of the opportunity cost of labor shall be 41.8%. This portion shall be reviewed by the Commissioner at least every five years as circumstances warrant.

(2) Alternative Calculation. In the absence of the timely publication of USDA's Monthly Milk Cost of Production, the Commissioner shall estimate the total operating costs, costs of hired labor, and the opportunity cost of unpaid labor; such estimates shall then be used to calculate the Trigger Price as in 330 CMR 29.06(1).

29.07: Farm Price

(1) Calculation. The Farm Price shall be calculated as the sum of the following values: the Butterfat Price multiplied by the Butterfat Test, the Protein Price multiplied by the Protein Test, the Solids Price multiplied by the Solids Test, and the MILC Payment rate for the applicable month.

(2) Alternative Calculation. In the absence of a timely publication by the Northeast Federal Milk Marketing Order of the necessary prices and component tests, the Commissioner shall estimate the required values and then use these estimates in the calculation as provided for in 330 CMR 29.07(1).

29.08: Tax Credit Calculation and Transmittal to the Department of Revenue

- (1) On or before the last day of January following the applicable tax year, the Commissioner shall calculate the following values:

(a) Trigger Percent

(b) Total Tax Credit

(c) Dairy Farmer Tax Credit Rate
- (2) On or before the last day of January following the applicable tax year, the Commissioner shall transmit a list of Eligible Taxpayers that may claim the Dairy Farmer Tax Credit. The list shall contain the taxpayer's name, tax identification number, Annual Milk Production, and the amount of the Dairy Farmer Tax Credit to which the Eligible Taxpayer is entitled.

29.09: Application of the Tax Credit to an Eligible Taxpayer's Tax Return

- (1) The amount of the Dairy Farmer Tax Credit shall be applied to the Eligible Taxpayer's income tax return as follows:

(a) if the tax liability is greater than the Dairy Farmer Tax Credit of the Eligible Taxpayer, then the taxpayer's tax liability shall be reduced the amount of the credit.

(b) if the tax liability is less than the Dairy Farmer Tax Credit, then the Eligible Taxpayer's tax liability shall be reduced to zero. The difference between the Dairy Farmer Tax Credit and the tax liability shall be multiplied by 0.9 (90%) and the result shall be refunded to the taxpayer.

(c) if the tax liability of the Eligible Taxpayer is zero, then the Dairy Farmer Tax Credit shall be multiplied by 0.9 (90%) and the result shall be refunded to the taxpayer.
- (2) An example of the forgoing follows:

Example 1.	
Taxes Owed	\$2,000
Tax Credit	-\$1,000
Net Taxes Owed	\$1,000
Example 2.	
Tax Credit	\$3,000
Taxes Owed	-\$2,000
Gross Refund	\$1,000
Net Refund (0.9 X 1,000)	\$900
Example 3.	
Tax Credit	\$3,000
Taxes Owed	-\$0,000
Gross Refund	\$3,000
Net Refund (0.9 X 3,000)	\$2,700

REGULATORY AUTHORITY